

Service, and such requirement shall be effective whenever regulations are in effect.

SHIPMENTS TO WASHERS

§ 953.113 Administrative policy.

All potatoes shipped to washers in the production area for processing are hereby declared to be shipped for a specified purpose pursuant to § 953.44(a)(3), and a Certificate or Certificates of Privilege must be obtained thereon prior to such shipment.

§ 953.114 Application.

(a) Each handler who first ships potatoes to washers as aforesaid shall, as a prerequisite to such shipments, apply to the Southeastern Potato Committee for a certificate or certificates of privilege thereon, and each such application shall show:

- (1) The name and address of the shipper;
- (2) The destination of such shipment;
- (3) The type of carrier to be used;
- (4) The amount of potatoes covered by such application; and
- (5) That, in appropriate cases, the proposed shipment to washers is approved under other applicable U. S. Government programs.

(b) Each handler who ships potatoes pursuant to the provisions of this section and § 953.113 shall authorize the committee or its duly authorized representative to inspect bills of sale, contracts, and relevant correspondence with respect to such shipments for the purpose of determining if such shipments were in fact shipped for the specified purpose.

§ 953.115 Consideration.

(a) The committee shall give, or cause its duly authorized representative to give, immediate consideration to each application received pursuant to § 953.114(a). Pursuant to such consideration each application shall be approved on the basis of compliance with § 953.114, and upon the committee being satisfied that the proposed shipment is in fact to be made for the specified purpose.

(b) Each handler whose application, submitted to the committee and acted upon pursuant to this section and §§ 953.113 and 953.114, has been disapproved shall be notified in writing of such action by the committee.

§ 953.116 Issuance of certificate of privilege.

(a) Upon each application being approved pursuant to § 953.115(a), the

committee shall issue or cause to be issued, a certificate or certificates of privilege.

(b) Each such certificate shall authorize the shipment of potatoes to a washer at a specified point within the production area and, in addition, such certificate shall direct the handler who ships such potatoes to report, as the committee may direct, the volume and destination of potatoes shipped thereunder and such other information as the Secretary or the committee may request.

(c) The original of each certificate of privilege shall be given to the handler named therein and one copy thereof shall be retained by the committee.

Subpart—Budget of Expenses and Rate of Assessment

§ 953.204 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Southeastern Potato Committee, established pursuant to Marketing Agreement No. 104 and Order No. 953 to enable such committee to perform its functions pursuant to the provisions of the aforesaid agreement and order during the fiscal period ending October 31, 1967, will amount to \$3,900.00.

(b) There shall be no assessments charged during said fiscal period.

(c) Terms used in this section shall have the same meaning as when used in Marketing Agreement No. 104 and this part.

[32 F.R. 12555, Aug. 30, 1967]

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

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AUTHORITY: The provisions of this Part 958 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

SOURCE: The provisions of this Part 958 appear at 22 F.R. 26, Jan. 3, 1957, unless otherwise noted. Redesignated at 26 F.R. 12751, Dec. 30, 1961.

Subpart—Order Regulating Handling**DEFINITIONS****§ 958.1 Secretary.**

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 958.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq., 68 Stat. 906, 1047).

§ 958.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 958.4 Production area.

"Production area" means all territory included within the boundaries of the County of Malheur in Oregon, and all counties south and southeast of the southern boundary of Idaho County in the State of Idaho.

§ 958.5 Onions.

"Onions" means all varieties of onions grown, or which may be grown, within the production area.

§ 958.6 Handler.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of onions owned by another person) who handles onions.

§ 958.7 Handle.

"Handle" is synonymous with "ship" and means to sell or transport onions, or cause onions to be sold or transported, within the production area or between the production area and any point outside thereof. Except as otherwise provided in §§ 958.56 and 958.65, this definition of "handle" shall not be applicable to onions that are transported within the production area for grading or storing therein, or to onions that are transported or sold to commercial dehydrators for processing by such dehydrators into dehydrated onion products.

§ 958.8 Grading.

"Grading" is synonymous with "prepare for market" and means the sorting

or separation of onions into grades and sizes for market purposes.

§ 958.9 Grade and size.

"Grade" means any of the officially established grades of onions, and "size" means any of the officially established sizes of onions, as set forth in:

(a) The United States Standards for grades of onions (other than Bermuda-Granex and Creole Types) (§§ 51.2830 to 51.2850 of this title), or amendments thereto, or modifications thereof, or variations based thereon; and

(b) Any other United States Standards, or State of Idaho or Oregon Standards for onions, or amendments thereto, or modifications thereof, or variations based thereon.

The term "size" also includes any of the sizes recognized by the onion trade in the production area.

§ 958.10 Producer.

"Producer" means any person engaged in the production of onions for market.

§ 958.11 Committee.

"Committee" means the Idaho-Eastern Oregon Onion Committee established pursuant to § 958.20.

§ 958.12 Fiscal period.

"Fiscal period" means the period beginning and ending on the dates approved by the Secretary pursuant to recommendations by the committee.

§ 958.13 Variety or varieties.

"Variety" or "varieties" means and includes all classifications of onions according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 958.14 Export.

"Export" means shipment of onions beyond the boundaries of continental United States.

§ 958.15 District.

"District" means each of the geographical divisions of the production area initially established or as reestablished pursuant to § 958.27.

§ 958.16 Pack.

"Pack" means a quantity of onions in any type of container and which falls within specific weight limits or within specific grade or size limits, or both, as may be recommended by the committee and approved by the Secretary.

§ 958.17 Container.

"Container" means a sack, box, bag, crate, hamper, basket, carton, package, or any other type of receptacle used in the packaging, transportation, sale, shipment or other handling of onions.

ADMINISTRATIVE COMMITTEE

§ 958.20 Establishment and membership.

(a) The Idaho-Eastern Oregon Onion Committee consisting of ten members, of whom six shall be producers and four shall be handlers, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(b) An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence or inability to act, and shall perform other duties as assigned. In the event of the death, removal, resignation or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified.

§ 958.21 Procedure.

(a) Seven members of the committee shall be necessary to constitute a quorum and seven concurring votes shall be required to pass any motion or approve any committee action.

(b) The committee may provide for voting by telephone, telegraph, or other means of communication and any such vote shall be confirmed promptly in writing: *Provided*, That if an assembled meeting is held, all votes shall be cast in person.

§ 958.22 Selection.

The Secretary shall select the producer and handler members and alternates from the nominee lists submitted pursuant to this part or from among other eligible persons.

(a) Each person selected as a committee member or alternate to represent producers shall be an individual who is a producer, or an officer or employee of a producer, in the district for which selected.

(b) Each person selected as a committee member or alternate to represent handlers shall be an individual who is a handler, or an officer or employee of a handler in the portion of the production area for which selected.

(c) The Secretary shall select one producer member of the committee, and alternate, from each of the districts established, or reestablished, pursuant to § 958.27. The Secretary shall also select one handler member of the committee, and his alternate, from the Idaho portion of the production area and one member and his alternate from Malheur County, Oregon, and two handler members, and their respective alternates, from the production area-at-large.

(d) Each person selected by the Secretary as a committee member or alternate shall qualify by filing a written acceptance promptly with the Secretary.

§ 958.23 Term of office.

(a) The term of office of committee members and alternates shall be for two years beginning on the first day of June and continuing through May 31. The terms of office of members and alternates shall be so determined that one-half of the total committee membership shall terminate each May 31.

(b) Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during the current term of office and continuing until the end thereof, and until their successors are selected and have qualified.

§ 958.24 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 958.25 Duties.

It shall be the duty of the committee:

(a) At the beginning of each fiscal period, or as soon thereafter as practicable, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To act as intermediary between the Secretary and any producer or handler.

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person;

(e) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to onions, and to engage in such research and service activities which relate to the handling or marketing of onions as may be approved by the Secretary;

(f) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(g) To make available to producers and handlers the committee voting record on recommended regulations and on other matters of policy;

(h) At the beginning of each fiscal period, to submit to the Secretary a budget of its proposed expenses for such fiscal period, together with a report thereon;

(i) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request; and the report of such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(j) To consult, cooperate, and exchange information, with other onion marketing committees and other individuals or agencies in connection with all proper committee activities and objectives under this subpart.

§ 958.26 Expenses and compensation.

Committee members and alternates when acting on committee business shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this part, and in addition, may receive compensation at a rate to be determined by the committee and approved by the Sec-

retary, not to exceed \$10 for each day, or portion thereof, spent in attending to committee business: *Provided*, That at its discretion the committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ 958.27 Districts.

(a) For the purpose of selecting committee members, the following districts of the production area are hereby initially established:

District No. 1 (Emmett, Payette, Weiser Area): All territory within the boundaries of Washington, Payette and Gem Counties, in Idaho.

District No. 2 (Oregon Slope): All territory within a boundary following the Snake River northwesterly from its junction with the Malheur River, to the west line of Range 46E; thence south along said west line to the south line of Township 17S, and thence east along said south line to its junction with the Malheur River, and thence northeasterly along the Malheur River to the junction with the Snake River, the point of beginning.

District No. 3 (Ontario, Vale, Jamieson, Brogan): All territory within a boundary starting at the junction of the Malheur River with the Snake River and extending southward along the Malheur River to its junction with the south line of Township 17S, E. W. M.; thence westward along this line to its junction with the west line of Range 46E; thence north along this line to its junction with the Snake River; thence northwest along the Snake River to its junction with the north boundary of Malheur County; thence west along the north boundary of Malheur County to the west boundary of the county; thence south along the west boundary of Malheur County to its intersection with the south line of Township 20S; thence east along this line to its junction with the Hyline Canal and Siphon; thence northeast along the Hyline Canal to its intersection with Highway 20; thence east along Highway 20 to Calro Junction; thence south $\frac{1}{8}$ mile to the junction of Highway 20 to Oregon Avenue; thence east along Oregon Avenue to its termination at the Snake River; thence north along the Snake River to its junction with the Malheur River, the point of beginning.

District No. 4 (Nyssa-Adrian): All the area of Malheur County, Oregon, south of District No. 3.

District No. 5 (Parma, Wilder, Nampa, and Notus Area): Canyon County, Idaho.

District No. 6 (Homedale, Marsing, Meridian, Melba, Mountain Home, Glenns Ferry and Twin Falls Area): All counties in the Idaho portion of the production area not included within Districts Nos. 1 and 5.

(b) The Secretary, upon the recommendation of the committee, may rees-

tablish districts within the production area and may reapportion committee membership among the various districts: *Provided*, That in recommending any such changes in districts or representation, the committee shall give consideration to: (1) The relative importance of new producing sections; (2) changes in the relative position of existing districts with respect to onion production; (3) the geographic location of areas of production as they would affect the efficiency of administering this part; (4) other relevant factors: *Provided, further*, That there shall be no change in the total number of committee members or in the total number of districts.

§ 958.28 Nominations.

Nominations from which the Secretary may select the members of the Idaho-Eastern Oregon Onion Committee and their respective alternates may be made in the following manner:

(a) The committee shall hold or cause to be held prior to April 1 of each year, after the effective date of this subpart, one or more meetings of producers and of handlers in each of the districts, or portions of the production area, in which the then current terms of office will expire the following May 31;

(b) In arranging for such meetings the committee may, if it deems desirable, cooperate with existing organizations and agencies and may combine its meetings with others;

(c) Nominations for committee members and alternate members shall be supplied to the Secretary, in such manner and form as he may prescribe, not later than 30 days prior to the end of each fiscal period;

(d) Only producers may participate in designating nominees for producer committee members and their alternates and only handlers may participate in designating nominees for handler committee members and their alternates;

(e) Each person who is both a handler and a producer may vote either as a handler or as a producer and may select the group in which he will vote; and

(f) Regardless of the number of districts in which a person produces or handles onions, each such person is entitled to cast only one vote on behalf of himself, his partners, agents, subsidiaries, affiliates and representatives, in designating nominees for committee members and alternates. In the event a person is a producer engaged in pro-

ducing onions in more than one district, such person shall select the district within which he may participate as aforesaid in designating nominees. Similarly, a person who is a handler both in Malheur County, Oregon, and in the Idaho portion of the production area, may select either Malheur County or the Idaho portion of the production area in which to cast his vote for the applicable committee handler member and alternate. Each such handler shall also be entitled to cast his vote for the committee member and alternate to represent the production area-at-large. An eligible voter's privilege of casting only one vote, as aforesaid, shall be construed to permit such voter to cast one vote for each member and alternate position to be filled in the respective district or portion of the production area, as the case may be, in which he elects to vote.

§ 958.29 Failure to nominate.

If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 958.28, the Secretary may, without regard to nominations, select the committee members and alternates on the basis of the representation provided for in this subpart.

§ 958.30 Vacancies.

To fill any vacancy occasioned by the failure of any person, selected as a committee member or alternate, to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected by the Secretary from nominations made in the manner specified in § 958.28, or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list from the district or portion of the production area, as the case may be, that is involved, or from other eligible persons. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in this subpart.

EXPENSES AND ASSESSMENTS

§ 958.40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred

by it during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expenses shall be proportionate to the ratio between the total quantity of such handler's onion shipments inspected pursuant to this part that are handled by him as the first handler thereof during a fiscal period, and the total quantity of such onions handled by all handlers as first handlers thereof during the same period.

§ 958.41 Budget.

At the beginning of each fiscal period, and as may be necessary thereafter, the committee shall prepare a budget of estimated income and expenditures necessary for the administration of this part. The committee shall recommend to the Secretary a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget promptly to the Secretary with an accompanying report thereon showing the basis for its calculations and recommended rate.

§ 958.42 Assessments.

(a) The funds to cover the committee's expenses pursuant to § 958.40 shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who handles onions as the first handler thereof which are inspected pursuant to this part shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of such expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations or other available information.

(c) At any time during or subsequent to a given fiscal period, the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendation, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all onion shipments inspected pursuant to this part during such fiscal period.

§ 958.43 Accounting.

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member or alternate of the committee, he shall account for all receipts, disbursements, funds, and property (including, but not being limited to, books and other records) pertaining to the committee's activities for which he is responsible, and deliver all such property and funds in his hands to such successor, agency, or person as may be designated by the Secretary, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in each such successor, agency, or person as may be designated by the Secretary the right to all of such property and funds and all claims vested in such person.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, and any other committee property during periods of suspension of this part, or during any periods when regulations are not in effect; and, if the Secretary determines such action appropriate, he may direct that such person or persons shall so act as trustee or trustees.

§ 958.44 Reserve fund.

At the end of each fiscal period, funds in excess of the committee's expenses may be placed in an operating reserve not to exceed approximately 1 fiscal year's operational expenses or such lower limits as the committee, with the approval of the Secretary, may establish. Also, the committee, with the approval of the Secretary, may include in its budget an item for such reserve. Funds in the reserve shall be available for use by the committee for expenses authorized pursuant to § 958.40. Funds in excess of those placed in the operating reserve shall be refunded to handlers. Each

handler's share of such excess shall be the amount he paid in excess of his pro rata share of the expenses of the committee.

[32 F.R. 11261, Aug. 3, 1967]

§ 958.45 Accounting of funds upon termination of the order.

Any funds collected as assessments pursuant to this subpart and remaining unexpended in the possession of the committee after termination of this part shall be distributed in such manner as the Secretary may direct: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

[32 F.R. 11262, Aug. 3, 1967]

RESEARCH AND DEVELOPMENT

§ 958.47 Marketing research and development.

(a) The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects, including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption of onions. Any such project for the promotion and advertising of onions may utilize an identifying mark which shall be made available for use by all handlers in accordance with such terms and conditions as the committee, with the approval of the Secretary, may prescribe. The expenses of such projects shall be paid from funds collected pursuant to § 958.42.

(b) In recommending projects pursuant to this section the committee shall give consideration to the following:

- (1) The expected supply of onions in relation to market requirements;
- (2) The supply situation among competing areas and commodities;
- (3) The anticipated benefits from such projects in relation to their costs;
- (4) The need for marketing research with respect to any market development activity; and
- (5) The need for a coordinated effort with USDA's Plentiful Foods Program.

(c) If the committee should conclude that a program of marketing research or development should be undertaken, or continued, in any crop year, it shall submit the following for the approval of the Secretary:

(1) Its recommendations as to the funds to be obtained pursuant to § 958.42;

(2) Its recommendation as to any marketing research projects; and

(3) Its recommendation as to promotion activity and paid advertising.

[32 F.R. 11262, Aug. 3, 1967]

REGULATION

§ 958.50 Marketing policy.

(a) *Preparation.* Prior to each marketing season the committee shall consider and prepare a proposed policy for the marketing of onions. In developing its marketing policy the committee shall investigate relevant supply and demand conditions for onions. In such investigations the committee shall give appropriate consideration to the following:

(1) Market prices for onions, including prices by variety, grade, size, and quality, and by different packs;

(2) Supply of onions by grade, size, quality, and variety in the production area and in other onion producing sections;

(3) The trend and level of consumer income;

(4) Establishing and maintaining orderly marketing conditions for onions;

(5) Orderly marketing of onions as will be in the public interest; and

(6) Other relevant factors.

(b) *Reports.* (1) The committee shall submit a report to the Secretary setting forth the aforesaid marketing policy; and the committee shall notify producers and handlers of the contents of such report.

(2) In the event it becomes advisable to shift from such marketing policy because of changed supply and demand conditions, the committee shall prepare an amended or revised marketing policy in accordance with the manner previously outlined. The committee shall submit a report thereon to the Secretary and notify producers and handlers of the contents of such report on the revised or amended marketing policy.

§ 958.51 Recommendations for regulations.

The committee shall recommend regulations to the Secretary whenever it finds that such regulations as provided in § 958.52 will tend to effectuate the de-

clared policy of the act. The committee also may recommend modification, suspension, or termination of any regulation, or amendments thereto, in order to facilitate the handling of onions for the purposes authorized in § 958.53. The committee may also recommend amendment, modification, termination, or suspension of any regulation issued under this part.

§ 958.52 Issuance of regulations.

(a) Except as otherwise provided in this part, the Secretary shall limit the shipment of onions by any one or more of the methods hereinafter set forth whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such limitation may:

(1) Regulate in any or all portions of the production area, the handling of particular grades, sizes, or qualities of any or all varieties of onions, or combinations thereof, during any period or periods;

(2) Regulate the handling of particular grades, sizes, or qualities, of onions differently, for different varieties, for different portions of the production area, for different packs, or for any combination of the foregoing, during any period or periods;

(3) Provide a method, through rules and regulations issued pursuant to this part, for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of onions, including appropriate container markings to identify the contents thereof.

(4) Regulate the handling of onions by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity; or

(5) Limit the shipment of the total quantity of onions by prohibiting the handling thereof during a specified period or periods. No regulation issued pursuant to this subparagraph shall be effective for more than 96 consecutive hours: *Provided*, That not less than 72 consecutive hours shall elapse between the termination of any such period of prohibition and the beginning of the next such period.

(b) In the event the handling of onions is regulated pursuant to paragraph (a) (5) of this section, no handler shall handle any onions which were prepared for market or loaded during the effective period of such regulation. However, during any such period, no such regulation shall be deemed to limit the right of any person to sell or contract to sell onions for future shipment or delivery.

(c) The Secretary may amend any regulation issued under this part whenever he finds that such amendment would tend to effectuate the declared policy of the act. The Secretary may also terminate or suspend any regulation or amendment thereof whenever he finds that such regulation or amendment obstructs or no longer tends to effectuate the declared policy of the act.

[22 F.R. 26, Jan. 3, 1957, as amended at 32 F.R. 11262, Aug. 3, 1967]

§ 958.53 Handling for specified purposes.

Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary shall issue special regulations, or modify, suspend, or terminate requirements in effect pursuant to §§ 958.42, 958.52, 958.60, or any combination thereof, in order to facilitate the handling of onions for the following purposes whenever he finds that to do so will tend to effectuate the declared policy of the act:

- (a) Shipments of onions for export;
- (b) Shipments of onions for relief or to charitable institutions;
- (c) Shipments of onions for livestock feed;
- (d) Shipments of onions for planting; and
- (e) Shipments of onions for other purposes which may be specified.

§ 958.54 Minimum quantities.

The committee, with the approval of the Secretary, may establish minimum quantities below which onion shipments will be free from the requirements in, or pursuant to, §§ 958.42, 958.52, 958.53, 958.60, or any combination thereof.

§ 958.55 Notification of regulations.

The Secretary shall notify the committee of each regulation issued, and of each amendment, modification, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

§ 958.56 Safeguards.

(a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent onions shipped,

(1) Pursuant to § 958.53 or § 958.54; or

(2) To commercial dehydrators for processing by such dehydrators into dehydrated onion products,

from entering channels of trade for other than the purpose authorized therefor.

(b) The committee, with the approval of the Secretary, may also prescribe rules and regulations governing the issuance, and the contents, of Certificates of Privilege if such certificates are prescribed as safeguards by the committee. Such safeguards may include requirements that:

(1) Handlers shall first file applications with the committee to ship such onions;

(2) Handlers shall obtain inspection provided by § 958.60, or pay the pro rata share of expenses provided by § 958.42, or both, in connection with such onions; and

(3) Handlers shall obtain Certificates of Privilege from the committee prior to effecting the particular onion shipment.

(c) The committee may rescind any Certificate of Privilege, or refuse to issue any Certificate of Privilege to any handler if proof is obtained that onions shipped by him for the purposes stated in the Certificate of Privilege were handled contrary to the provisions of this part.

(d) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(e) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of onions covered by such applications, the number of such applications denied and certificates granted, the quantity of onions handled under duly issued certificates, and such other information as may be requested.

INSPECTION

§ 958.60 Inspection and certification.

(a) During any period in which shipments of onions are regulated pursuant to this subpart, no handler shall handle onions unless such onions are inspected by an authorized representative of the

Federal-State Inspection Service, or such other inspection service as the Secretary shall designate and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to §§ 958.53, 958.54, or both.

(b) Regrading, resorting, or repacking any lot of onions shall invalidate prior inspection certificates insofar as the requirements of this section are concerned. No handler shall ship onions after they have been regraded, resorted, repacked or in any other way further prepared for market, unless such onions are inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate.

(c) Upon recommendation of the committee, and approval of the Secretary, all onions that are required to be inspected and certified in accordance with this section, shall be identified by appropriate seals, stamps, tags, or other identification to be furnished by the committee and affixed to the containers by the handler under the direction and supervision of the Federal-State, or Federal inspector, or the committee. Master containers may bear the identification instead of the individual containers within said master container.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When onions are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

REPORTS

§ 958.65 Reports.

Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to, the following: (1) The quantities of onions received by a handler; (2) the quantities disposed of by him, segregated as to the respective quantities subject to regulation and not subject to regulation; (3) the date of

each such disposition and the identification of the carrier transporting such onions; and (4) identification of the inspection certificates relating to the onions which were handled pursuant to §§ 958.53 and 958.54.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of individual handler's identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the onions received, and of onions disposed of, by such handler as may be necessary to verify the reports he submits to the committee pursuant to this section.

EFFECTIVE TIME AND TERMINATION

§ 958.70 Effective time.

The provisions of this subpart, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ 958.71 Termination.

(a) The Secretary may at any time terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operations of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during a representative period, have been engaged in the production for market of onions: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such onions produced for market, but such termination shall be effective only if announced on or before May 31 of the then current fiscal period.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 958.72 Proceeding after termination.

(a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as joint trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession, or under control, of the committee, including claims for any funds unpaid and property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 958.73 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or of any regulation issued under this subpart; (b) release or extinguish any violation of this subpart or of any regulations issued under this subpart; or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

MISCELLANEOUS PROVISIONS

§ 958.81 Compliance.

No handler shall handle onions the handling of which has been prohibited or otherwise limited by the Secretary in accordance with provisions of this part; and no handler shall handle onions except in conformity to the provisions of this part.

§ 958.82 Right of the Secretary.

The members of the committee (including successors and alternates) and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 958.83 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 958.84 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any agency in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 958.85 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 958.86 Personal liability.

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment,

mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, wilful misconduct, or gross negligence.

§ 958.87 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 958.88 Amendments.

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

Subpart—Budget of Expenses and Rate of Assessment

§ 958.211 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1967, and ending June 30, 1968, by the Idaho-Eastern Oregon Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to \$8,275.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be three-tenths of one cent (\$0.003) per hundredweight of onions handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending June 30, 1968, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part. [32 F.R. 12743, Sept. 6, 1967]

PART 959—ONIONS GROWN IN SOUTH TEXAS

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